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| POLICY TITLE: SEARCH AND SEIZURE POLICY NUMBER: 9.9 - ACC CHAPTER 9: SUPERVISION AND CASE MANAGEMENT | | PAGE <u>1</u> OF <u>4</u> |
|  | STATE of MAINE DEPARTMENT OF CORRECTIONS Adult Community Corrections Approved by: <u>Martin Magnusson</u> Signature of Commissioner | PROFESSIONAL STANDARDS: See Section VII |
| EFFECTIVE DATE: October 2, 2006 | LATEST REVISION: | CHECK ONLY IF APA [] |

I. AUTHORITY

The Commissioner of Corrections adopts this policy pursuant to the authority contained in 34-A M.R.S.A. Section 1403.

II. APPLICABILITY

Adult Community Corrections

III. POLICY

It is the policy of the Department of Corrections, Adult Community Corrections, to exercise search and seizure powers within the requirements of the law.

IV. CONTENTS

Procedure A: Search, General
 Procedure B: Seizure
 Procedure C: Documentation

V. ATTACHMENTS

None

VI. PROCEDURES

Procedure A: Search, General

1. A Probation Officer may require a person under the supervision or in the custody of the Department of Corrections to submit to a search of his or her person, residence, vehicle, papers, and effects as allowed by the conditions of the person's probation, parole, supervised release for sex offenders, or release from a departmental correctional facility to Supervised Community Confinement.

2. If a person agrees to submit to a search allowed by a condition, the person must be present while the search is conducted. If a person refuses to submit to a search allowed by a condition, the Probation Officer shall consider whether conducting the search without the person's cooperation is necessary to protect public safety or whether initiating revocation proceedings without conducting the search or some other response would be sufficient.
3. If the Probation Officer decides to conduct the search without the person's cooperation, the person shall be arrested for a violation of the condition, and any other precautions necessary, including, but not limited to, removal of the person from the vicinity, shall be taken prior to the search being conducted.
4. A Probation Officer may pat search a person under the supervision or in the custody of the Department of Corrections at any time if there is reasonable suspicion that the person has a weapon or evidence relating to any violation of conditions of supervision or release on his or her person.
5. Whenever a Probation Officer makes an arrest, the person arrested shall be pat searched for potential weapons and for evidence relating to any violation of conditions of supervision or release. At the time of the arrest, the area within the immediate reach of the person arrested may also be searched.
6. A Probation Officer may also conduct a search of the residence, vehicle, papers, and effects of a person under the supervision or in the custody of the Department of Corrections with the person's consent provided the consent is voluntary and the person has the authority to give consent (e.g., the person may consent to a search of his or her bedroom and of common living areas but not of another resident's bedroom).
7. A Probation Officer may also conduct a search as authorized by a warrant.
8. A Probation Officer's search powers do not extend to an individual who is not under the supervision or in the custody of the Department except that an individual may be pat searched only for a weapon if he or she is present during the search and there is reasonable suspicion that the individual has a weapon which might endanger personal safety.
9. A Probation Officer planning to conduct a search may request the assistance of law enforcement officers from other criminal justice agencies. A Probation Officer may also authorize law enforcement officers from other criminal justice agencies to conduct a search allowed by a condition of the person's supervision or release.
10. With the exception of a pat search conducted pursuant to A.4 or A.8. above, a Probation Officer may conduct a search or authorize a search only for the purpose

| POLICY NUMBER/TITLE | CHAPTER NUMBER/TITLE | PAGE NUMBER |
|-------------------------------------|---|-------------------------------|
| 9.9 – ACC Search and Seizure | 9. Supervision and Case Management | Page 2 of 4 10/2/06 |

of determining a person's compliance with the conditions of the person's supervision or release.

11. Under no circumstance may a Probation Officer conduct or authorize a strip search or body cavity search. A pat search may include a visual inspection of a person's mouth.
12. Every search shall be conducted with respect for privacy and property rights as limited by the need to protect personal and public safety.

Procedure B: Seizure

1. A Probation Officer shall seize any item which is in plain view that there is probable cause to believe is evidence of a violation of a condition of release or supervision.
2. If any item is found during a search that there is probable cause to believe is evidence of a violation of a condition of release or supervision, it shall be seized.
3. If any item is found during a pat search of a person searched pursuant to A.4. above that there is probable cause to believe is a weapon, it shall be seized to protect personal safety. If possession of the weapon by the person is lawful, it shall be returned to the person when it is safe to do so.
4. If any item is found during a pat search of a person being arrested that there is probable cause to believe is a weapon, it shall be seized.
5. If any item is found during a pat search of an individual searched pursuant to A.8. above that there is probable cause to believe is a weapon, it shall be seized in order to protect personal safety. If possession of the weapon by the individual is lawful, it shall be returned to the individual when it is safe to do so.
6. If any item is found during a pat search of an individual searched pursuant to A.8. above that there is probable cause to believe is unlawful for the person to possess, it shall be seized and turned over to an appropriate law enforcement agency.

Procedure C: Documentation

1. Whenever a search is conducted, the Probation Officer shall document the search in CORIS. This documentation shall include:
 - a. The name of any Probation Officer who conducted, authorized, or was present during the search;
 - b. The name and/or description of any other person assisting with or present during the search;

| POLICY NUMBER/TITLE | CHAPTER NUMBER/TITLE | PAGE NUMBER |
|------------------------------|------------------------------------|------------------------|
| 9.9 – ACC Search and Seizure | 9. Supervision and Case Management | Page 3 of 4 10/2/06 |

- c. The date, time and place of the search;
- d. The type and basis of the search (e.g., vehicle search pursuant to condition of probation);
- e. A description of any item seized and its disposition; and
- f. A description of any damage occurring during the search and how it occurred, regardless of whether the damage was done by a Probation Officer or someone else.

VII. PROFESSIONAL STANDARDS

| POLICY NUMBER/TITLE | CHAPTER NUMBER/TITLE | PAGE NUMBER |
|-------------------------------------|---|-------------------------------|
| 9.9 – ACC Search and Seizure | 9. Supervision and Case Management | Page 4 of 4 10/2/06 |